

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

## THOMAS PAUL WILLIAMS.

Plaintiff,

V.

HENRY RICHARDS *et al.*,

## Defendants.

Case No. C05-5289RBL

## ORDER ADOPTING REPORT AND RECOMMENDATION

The Court, having reviewed, the Report and Recommendation of Magistrate Judge J. Kelley Arnold, objections to the Report and Recommendation, if any, and the remaining record, does hereby find and ORDER:

(1) (A) This is not a class action lawsuit under FRCP 23, although plaintiff refers to a “class” in the complaint. (Dkt. # 6, page 30).

(B) Plaintiff is, apparently a member of the class formed in Turay v. Seling, C91-664RSM, and is, as a class member, represented by counsel in that case.

(C) The issues plaintiff attempts to raise in his Complaint substantially overlap with issues raised in the Turay case. Insofar as these issues do overlap, they should be raised in Turay. The court is aware of the unpublished 9th opinion in Scott v. Seling, CV 03-5398RBL. The court sees no reason plaintiff cannot move to lift the stay in Turay to bring the conditions of confinement complained of to that courts attention. The conditions

1 of confinement and the treatment environment were the  
2 focus of injunctive relief that is being monitored by the  
3 Turay court.

4 (D) The Turay case is still open as is reflected in that file.  
5 (E) Plaintiff's Complaint (Dkt. # 6) does not comply with  
6 FRCP 8(a), which requires "a short plain statement of  
7 the claim showing that the pleader is entitled to relief,"  
8 or FRCP 8(e), which requires that "each averment of a  
9 pleading shall be simple, concise, and direct." While  
10 "no technical forms of pleadings...are required," and  
11 while "all pleadings should be construed to do  
12 substantial justice," FRCP 8(e), it is extremely difficult  
13 to figure out just what, if anything, plaintiff is  
14 complaining about that is not within the scope of Turay  
15 and is covered within the scope of federal jurisdiction.  
16 This is a sufficient basis, standing alone, to call for the  
17 dismissal of Plaintiff's Complaint without prejudice.  
18 (F) Although this suit seeks money damages, no damage request could be  
19 considered until such time as the plaintiff prevailed under Turay.  
20 (2) The Court adopts the Report and Recommendation.  
21 (3) The complaint is DISMISSED WITHOUT PREJUDICE.  
22 (4) The clerk is directed to send copies of this Order to plaintiff, counsel for any  
23 defendants who have appeared, and to the Hon. J. Kelley Arnold.  
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25 DATED this 9<sup>th</sup> day of August, 2005.  
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RONALD B. LEIGHTON  
UNITED STATES DISTRICT JUDGE